

FILED

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

OCT 25 2013

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

CHEVRON CORPORATION,

No. 13-16920

Plaintiff - Appellee,

D.C. No. 3:12-mc-80237-CRB
Northern District of California,
San Francisco

v.

STEVEN DONZIGER; et al.,

ORDER

Defendants,

v.

JOHN DOE; et al.,

Non-Party Movants -
Appellants.

Before: BERZON and RAWLINSON, Circuit Judges.

Appellants' emergency motion to stay the district court's orders of August 22, 2013 and October 21, 2013 pending appeal is granted in part. *See Hilton v. Braunschweig*, 481 U.S. 770, 771, 776 (1987).

The stay motion is granted with respect to the following email addresses:

cortelyou@gmail.com, firger@gmail.com, tegelsimeon@gmail.com,
kevinkoenigquito@gmail.com, and erikmoe66@yahoo.com and/or

eriktmoe66@yahoo.com. Based on the record currently before us, there appears to be a substantial question on the merits under the First Amendment with respect to these email addresses. Additionally, the record does not establish the involvement of these addresses in any of the five areas as to which the trial court in New York found that Chevron had established probable cause to believe there was fraud or other criminal activity. *See Chevron Corp. v. Donziger*, No. 1:11-cv-00691-LAK-JCF, 2013 WL 1087236 (S.D.N.Y. Mar. 15, 2013). Google and Yahoo! shall not produce the discovery relating to these email addresses pending further order of this court.

The stay motion is denied with respect to the following email addresses:

richard.clapp@gmail.com, sdonziger@gmail.com, javipi002@gmail.com,
documents2010@ymail.com, srd.asst@gmail.com, gringograndote@gmail.com,
pafabibi@gmail.com, ingrcabrera@gmail.com, rcabrera@gmail.com,
casotexaco@gmail.com, grahamrocks@gmail.com, anemachetes@gmail.com,
garcesme@gmail.com, echeverra.alejandra@gmail.com,
invictusdocs2010@gmail.com, comandocondor88@gmail.com,
cara.parks@gmail.com, osimonc@gmail.com, sdonziger@yahoo.com,
sdonziger2@yahoo.com, ingrcabrera@yahoo.com, rcabrera@yahoo.com,
lcoca62@yahoo.com.mx, jdtorres@yahoo.com, elpezkadr@yahoo.com,

pedrofreire69@yahoo.es, fpenafiel1100@yahoo.com, champcw1@yahoo.com, robinsoncofan@yahoo.es, juanaulestia@yahoo.com.mx, emu_25@yahoo.com, doug_vilsack@yahoo.com, valeramia@yahoo.com, frente_de_defensa@yahoo.com, ruben.miranda@rocketmail.com, limcas2002@yahoo.com, and sandragrimaldi12@yahoo.com. It appears that defendants have claimed ownership of three of these email addresses. One other address appears to have had involvement with the areas of probable fraud identified by the trial court in New York. The remainder are addresses for which appellants have not claimed ownership. We are not presented with a facial challenge to an allegedly overbroad statute, where First Amendment concerns may justify a lessening of prudential limitations on standing (*see, e.g., Kowalski v. Tesmer*, 543 U.S. 125, 130 (2004); *Sec. of State of Md. v. Joseph H. Munson Co.*, 467 U.S. 947, 956-57 (1984)), but rather, an as-applied challenge to two specific subpoenas. Appellants have not raised a substantial question on the merits with respect to the district court's holding that appellants lack standing to quash the subpoenas as to these email addresses. *See* August 22, 2013 District Court Order at 8-10. The production ordered by the district court relating to these email addresses shall take place no later than October 29, 2013, at 5:00 p.m. PDT.

The stay motion is denied as unnecessary with respect to the following email addresses because the district court granted the motion to quash:

ampage@gmail.com, lauragarr@gmail.com, drewwoods3@yahoo.com,
drewwoods3@gmail.com, coldmtn@gmail.com, bandawatch@gmail.com,
josephmutti@gmail.com, jenbilbao3@yahoo.com, lore_gamboa@yahoo.es,
briansethparker@gmail.com, goldstein.ben@gmail.com,
katiafachgomez@gmail.com, kshuk22@yahoo.com, sayjay80@gmail.com,
catmongeon@gmail.com, wilsonaguinda@gmail.com, sara.colon@gmail.com,
farihahzaman@gmail.com, jeremylow@gmail.com, courtneyrwong@gmail.com,
marialya@gmail.com, lupitadeheredia@gmail.com, lupitadeheredia@yahoo.com,
hueyzactlan@gmail.com, rodgers.john@gmail.com, and
belanger.laura@gmail.com.

The court sua sponte expedites this appeal. The opening brief is now due November 22, 2013; the answering brief is due December 20, 2013; and the optional reply brief is due within 14 days after service of the answering brief.

Any request for an extension of time to file a brief is disfavored; any such relief must be requested under Ninth Circuit Rule 31-2.2(b).

The Clerk shall place this appeal on the first available calendar upon completion of briefing.